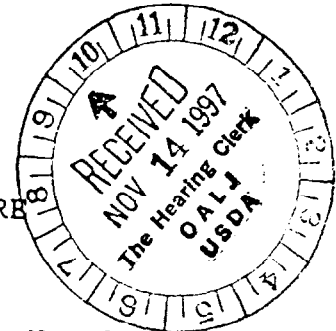


UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE



In re:) P. & S. Docket No. D-97-29
Terry Rhoades,)
Respondent)

DECISION WITHOUT HEARING
BY REASON OF DEFAULT

Preliminary Statement

This is a disciplinary proceeding under the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. § 181 et seq.), herein referred to as the Act, instituted by a complaint filed by the Deputy Administrator, Packers and Stockyards Programs, GIPSA, United States Department of Agriculture, charging that the respondent wilfully violated the Act.

Copies of the complaint and the Rules of Practice (7 C.F.R. § 1.130 et seq.) governing proceedings under the Act were served upon respondent by certified mail. Respondent was informed in a letter of service that an answer should be filed pursuant to the Rules of Practice and that failure to answer would constitute an admission of all the material allegations contained in the complaint.

Respondent has failed to file an answer within the time prescribed in the Rules of Practice, and the material facts alleged in the complaint, which are admitted by respondent's failure to file an answer, are adopted and set forth herein as findings of fact.

This decision and order, therefore, is issued pursuant to section 1.139 of the Rules of Practice (7 C.F.R. § 1.139).

Findings of Fact

1. (a) Terry Rhoades, hereinafter referred to as respondent Rhoades, is an individual whose business mailing address is P. O. Box 148, Perrin, Texas 76486.

(b) Respondent Rhoades is and at all times material herein was:

(1) Engaged in the business of buying and selling livestock for his own account;

(2) Engaged in the business of buying livestock on commission, and

(3) Registered as an individual with the Secretary of Agriculture as a market agency buying on commission.

2. (a) Respondent Rhoades, in connection with his operations subject to the Act, on or about the dates and in the transactions set forth in paragraph II(a) of the complaint, purchased livestock and in purported payment therefor, issued checks which were returned unpaid by the bank upon which they were drawn because respondent Rhoades did not have and maintain sufficient funds on deposit and available in the account upon which such checks were drawn to pay such checks when presented.

(b) Respondent Rhoades, on or about the dates and in the transactions set forth in paragraphs II(a) and (b) of the complaint, purchased livestock and failed to pay, when due, the full purchase price of such livestock.

(c) As of July 9, 1997, \$195,939.05 remained unpaid for livestock purchases set forth in paragraphs II(a) and (b) of the complaint.

Conclusions

By reason of the facts found in Finding of Fact 2 herein, respondent Rhoades has wilfully violated sections 312(a) and 409 of the Act (7 U.S.C. §§ 213(a), 228b).

Order

Respondent Rhoades, his agents and employees, directly or through any corporate or other device, in connection with his activities subject to the Packers and Stockyards Act, shall cease and desist from:

1. Issuing checks in payment for livestock purchases without having and maintaining sufficient funds on deposit and available in the account upon which such checks are drawn to pay such checks when presented;
2. Failing to pay, when due, the full purchase price of livestock; and
3. Failing to pay the full purchase price of livestock.

Respondent Rhoades is suspended as a registrant under the Act for a period of five (5) years, provided, however, that upon application to the Grain Inspection, Packers and Stockyards Administration, a supplemental order may be issued terminating this suspension at any time after the expiration of 120 days upon demonstration by respondent that all unpaid livestock sellers have been paid in full, and provided further that this order may

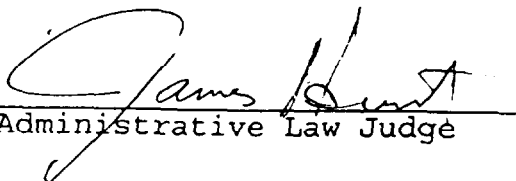
be modified upon application to the Grain Inspection, Packers and Stockyards Administration to permit respondent Rhoades's salaried employment by another registrant or packer after the expiration of the 120 day period of suspension upon demonstration of circumstances warranting modification of the order.

This decision shall become final and effective without further proceedings 35 days after the date of service upon the respondent, unless it is appealed to the Judicial Officer by a party to the proceeding within 30 days pursuant to section 1.145 of the Rules of Practice (7 C.F.R. § 1.145).

Copies hereof shall be served upon the parties.

Done at Washington, D.C.

this 14th day of November 1997


Administrative Law Judge